

D.B.CIVIL SPECIAL APPEAL (WRIT) NO. 830/2006

Ms. Udi

v.

The Board of Revenue, Ajmer & ors.

Date of order : 04.10.2007

HON'BLE THE CHIEF JUSTICE MR. J.M.PANCHAL

HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. Pradeep Choudhary for the appellant

Mr. S.Ladreacha, Addl. Govt. Advocate

The instant appeal is directed against judgment dated November 22, 2006 rendered by the learned Single Judge in S.B.Civil Writ Petition no. 6620/2006 by which the prayer made by the appellant to set aside judgment dated September 5, 2006 passed by the Board of Revenue, Ajmer in case no. 23/01/Appeal/LR/Chittorgarh (3597/01) setting aside the order dated March 28, 2001 passed by the Revenue Appellate Authority, is refused.

Land ad measuring 2 bighas of khasra no. 451/70 of village Semliya was allotted to the respondent no.2 under the provisions of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 on October 26, 1977. The appellant filed an application under rule 14(4) of the Rules of 1970 to cancel the allotment made in favour of the respondent no.2 after a period of 23 years on the ground that he was in possession of the khasra allotted to the respondent no.2. The District Collector, Chittorgarh by order dated October 11, 2000 rejected the said application. Feeling aggrieved, the appellant filed an appeal before the Revenue Appellate Authority. The Revenue Appellate Authority allowed the same by judgment dated March 28, 2001. Thereupon the respondent no.2

preferred an appeal before the Board of Revenue. The Board of Revenue allowed the same by judgment dated September 5, 2006. Thereupon the appellant invoked extra ordinary jurisdiction of this Court under Art. 226 of the Constitution by filing S.B.Civil Writ Petition no. 6620/2006 and prayed to set aside the judgment dated September 5, 2006 rendered by the Board of Revenue. The learned Single Judge has dismissed the petition by order dated November 22, 2006 giving rise to the instant appeal.

This Court has heard the learned counsels for the parties and considered the documents forming part of the petition.

The fact that application under rule 14(4) of the Rules of 1970 was filed by the appellant after a period of 23 years from the date of allotment of khasra to the respondent no.2 is not in dispute. Before the Revenue Appellate Authority photostat copies of certain documents were produced by the appellants though neither permission was sought nor permission was granted to the appellant to produce the secondary evidence. Under the circumstances, the Board of Revenue was justified in coming to the conclusion that no valid evidence was tendered by the appellant before the competent authority to establish his claim that he was in possession of the disputed property. On the facts and in the circumstances of the case, this Court is of the opinion that the reasons assigned by the Board of Revenue for the purpose of setting aside judgment dated March 28, 2001 passed by the Revenue Appellate Authority are cogent as well as borne out from the record of the case and therefore, the learned Single Judge was justified in not interfering with the same in a

petition which was filed under Art. 226 of the Constitution. Having regard to the facts of the case, this Court is of the opinion that no ground is made out by the learned counsel for the appellant to interfere with the impugned order and therefore, the appeal which lacks merit deserves dismissal more particularly when it could not be established by the appellant that the allotment was secured by the respondent no.2 through fraud or mis-representation or that the allotment was made against the Rules or that the allottee i.e. Respondent no.2 had committed breach of any of the conditions of allotment.

For the foregoing reasons the appeal fails and is dismissed. Notices are discharged. There shall be no order as to costs.

(BHANWAROO KHAN )J.

(J.M.PANCHAL), C.J.

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